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ATTORNEYS FOR PLAINTIFFS

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA**

JAMES STEVENSON, BARON BENHAM, LYNIE STONE, JESSICA CHAMBERS, AS AGGRIEVED ELECTORS,	**Case No.**
Plaintiffs,	
vs.	
GOVERNOR DOUG DUCEY AND SECRETARY OF STATE KATIE HOBBS,	**EXPERT REPORT OF DENNIS NATHAN CAIN**
Defendants.	

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I.   INTRODUCTION

I have been retained as an expert witness on behalf of Petitioners in the above captioned proceeding. I expect to testify on the following subject matters: (i) application of the federal law's maximum-acceptable error rate of one in 500,000 ballot positions, or, alternatively, one in 125,000 ballots to the November 3, 2020 election for the selection of Presidential Electors in the State of Arizona ("State"); (ii) render opinions regarding whether the maximum-acceptable error rate was exceeded based on government data and Braynard's and Zhang's analysis relating to the November 3, 2020 election for the selection of Presidential Electors in the State; and (iii) render opinions regarding whether the error rate of the November 3, 2020 election for the selection of Presidential Electors in the State so exceeded the federal law's maximum-acceptable error rate that State certification is legally unauthorized.

This is a statement of my relevant opinions and an outline of the factual basis for these opinions. The opinions and facts contained herein are based on the information made available to me in this case prior to preparation of this report, as well as my professional experience as an election data analyst.

I reserve the right to supplement or amend this statement on the basis of further information obtained prior to the time of trial or in order to clarify or correct the information contained herein.

II.   DOCUMENTS REVIEWED

I reviewed the following documents in arriving at my opinions.

1.   Matt Braynard's declaration (attached as Exhibit 1)

2.   Qianying (Jennie) Zhang's declaration (attached as Exhibit 2)

In addition, I discussed the facts of this matter with Petitioner's attorney Erick G.

Kaardal and members of his legal team.

III.   PROFESSIONAL QUALIFICATIONS

My name is Dennis Nathan Cain. I am a resident of Berkley County, West Virginia. I

am a Cybersecurity Subject Matter Expert with a combined 23 years experience in

information assurance, risk management, vulnerability assessment, systems engineering, and

systems certification assessment and authorization.

 I currently maintain and have held a TOP SECRET clearance with a Single Scope

Background Investigation (SSBI) for 22 years.

I hold credentials as a Certified Information Systems Security Professional (CISSP)

#420251 since April 30, 2012 and as Navy Qualified Validator (NQV) and have worked for

Army, Navy, Marine Corps, DISA, FBI, and others.

I was trained in NSA's CYBERCORE program at PHNX II and was a member of

the MARFORCYBER Cyber Protection Team (CPT) National Mission, whose core

responsibility was protecting national critical infrastructure against cyber-attack by domestic

and foreign adversaries. I currently am employed with cleared defense contractor Assett, Inc

as a Senior Cybersecurity Engineer and provide systems cybersecurity assessment as a NQV

for US NAVY, NAVSEA, TSUBCYBER for their Submarine program.

My work consists of consulting as a Subject Matter Expert trusted agent, validating

Navy information and weapon systems for compliance with NIST Special Publication 800

series, specifically the NIST SP 800-53rev4 Security Controls and various ISO standards.

These same standards are cited as requirements for certification of all electronic

voting systems under both Help America Vote Act (HAVA) under the Federal Election

Commission (FEC) Voting Systems Standards (VSS), Volume I and the Federal Information

Security Modernization Act (FISMA).

I was brought together with a team of experts in various fields related to election

operations, process, and cybersecurity, due to my expertise and knowledge of government

IT systems cybersecurity certification requirements. During my examination of HAVA, the

FEC VSS, FISMA, NIST SP 800-53rev4 Security Controls, I discovered several

inconsistencies with stated maximum error requirements in these federal laws and standards.

IV.   COMPENSATION

I have been retained as an expert witness for Petitioners. I am not being

compenstated.

V.   PRIOR TESTIMONY

I have not provided testimony as an expert either at trial or in deposition in the last

four years.

VI. STATEMENT OF OPINIONS

As set forth above, I have been engaged to provide expert opinions regarding analysis in the November 3, 2020 election of Presidential electors in the State. Based on my review of the documents set forth above, my discussions with statisticians and analysts working with me and at my direction, my discussions with the attorneys representing the Petitioners, I have the following opinions:

1. It is my opinion, to a reasonable degree of scientific certainty, that the State's data and Braynard's and Zhang's analysis show that the November 3, 2020 election error rate exceeded the federal law's maximum-acceptable error rate of one in 500,000 ballot positions, or, alternatively, one in 125,000 ballots to the November 3, 2020 election.

2. It is my opinion, to a reasonable degree of scientific certainty, that in the State, the November 3, 2020 election error rate exceeded the federal law's maximum-acceptable error rate of one in 500,000 ballot positions, or, alternatively, one in 125,000 ballots to the November 3, 2020 election.

3. It is my opinion, to a reasonable degree of scientific certainty, that the State's certification of the November 3, 2020 election for the selection of Presidential Electors in the State is legally unauthorized because the error rate of the election exceeded the federal law's maximum-acceptable error rate.

VII. BASIS AND REASONS SUPPORTING OPINIONS.

It is my opinion that based on government data and the analysis of Braynard and Zhang, and due to the lax controls on absentee voting in the November 3, 2020 election in the State, that the State's election error rate for the November 3, 2020 election exceeds the federal law's maximum-acceptable error rate. As a result, it is my opinion that the State's election results should not be certified.

First, the error rate of the State's election far exceeds the federal law's maximum-acceptable error rates. The maximum-acceptable error rate under federal law is one in 500,000 ballot positions, or, alternatively one in 125,000 ballots.

Section 3.2.1 of the voting systems standards issued by the FEC which were in effect on the date of the enactment of HAVA provides that the voting system shall achieve a maximum acceptable error rate in the test process of one in 500,000 ballot positions. A ballot position is every possible selection on the ballot, to include empty spaces. As stated in the voting systems standards, "[t]his rate is set at a sufficiently stringent level such that the likelihood of voting system errors affecting the outcome of an election is exceptionally remote even in the closest of elections." An update to the FEC VSS was made by the Election Assistance Commission (EAC) in the Voluntary Voting Systems Standards to enhance the FEC VSS standard, which the State has adopted by law. The FEC VSS standard provides for an error rate of one in 125,000 ballots as an alternative to the one and 500,000 ballot positions to make it easier to calculate said error rate. The FEC standards, which are incorporated into HAVA § 301(a)(5), require that all systems be tested in order to certify that they meet the maximum error rate set by federal law.

When the federal law's maximum-acceptable error rates are applied to the State's absentee ballot error rates, the State's presidential Elector results are uncertifiable. Applying the federal law's maximum-acceptable error rate to the State's total vote of about 3,300,000 comes to about 27 votes. So, under federal law, the maximum-acceptable error rate would be violated if the combination of illegal votes counted and illegal votes not counted exceeded 27 votes.

The following chart, based on government data and Braynard's and Zhang's analysis, shows estimate of illegal votes counted and legal votes not counted to exceed 150,000 ballots.

Arizona Presidential Election Contest
Margin +10,457

Type	Description	Margin
1) Illegal Votes Counted	Estimate of ballots requested in the name of someone other than that person	214,526
2) Legal Votes Not Counted	Estimate of ballots that the requester returned but were not counted	131,092
3) Illegal Votes Counted*	Electors voted where they did not reside.	19,997
4) Illegal Votes Counted*	Out of State Residents Voting in State	5,726
5) Illegal Votes Counted*	Double Votes	157
TOTAL 1 & 2		345,618
TOTAL		371,498

*May overlap

Any certification of the State's November 3 election results is not legally authorized because of the State's violation of the federal law's maximum-acceptable error rate.

VIII. EXHIBITS TO BE USED AT TRIAL TO SUMMARIZE OR EXPLAIN OPINIONS

At the present time, I intend to rely on the documents produced set forth above as possible exhibits.

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SIGNATURE PAGE TO FOLLOW

Electronically signed by /s/ Dennis
Nathan Cain

Dated: December 3, 2020

Dennis Nathan Cain